



February 11, 2009

HOUSE BILL No. 1056

DIGEST OF HB 1056 (Updated February 9, 2009 8:13 pm - DI 92)

Citations Affected: IC 5-10.4; IC 36-8; noncode.

Synopsis: Military service credit for TRF members. Grants, under certain conditions, up to six years of service credit in the teachers' retirement fund (TRF) for a member's past active duty military service. Grants under certain circumstances a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) up to six years of service credit for active duty military service. Authorizes under certain conditions a member of the 1977 fund to purchase up to two additional years of service credit for active duty military service.

Effective: July 1, 2009.

Kersey

January 7, 2009, read first time and referred to Committee on Ways and Means.
February 10, 2009, amended, reported — Do Pass.

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HB 1056—LS 6195/DI 116+



February 11, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1056

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.4-4-8, AS AMENDED BY P.L.201-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 8. (a) This subsection applies to a member who
4 retires before July 1, 1980. A member who had completed four (4)
5 years of approved college teacher education before voluntary or
6 involuntary induction into the military services is entitled to credit for
7 that service as if the member had begun teaching before the induction.
8 A member who serves in military service is considered a teacher and
9 is entitled to the benefits of the fund if before or during the leave of
10 absence the member pays into the fund the member's contributions.
11 Time served by a member in military service for the duration of the
12 hostilities or for the length of active service in the hostilities and the
13 necessary demobilization time after the hostilities is not subject to the
14 one-seventh rule set forth in section 7 of this chapter.
15 (b) This subsection applies to a member who retires after June 30,
16 1980. A member who completed four (4) years of approved college
17 teacher education before voluntary or involuntary induction into

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1 military service is entitled to credit for the member's active military
 2 service as if the member had begun teaching before the induction. A
 3 member who serves in military service is considered a teacher and is
 4 entitled to the benefits of the fund if the following conditions are met:

- 5 (1) The member has an honorable discharge.
- 6 (2) Except as provided in subsection (e), the member returns to
 7 active teaching service not later than twenty-four (24) months
 8 after the completion of active military service.
- 9 (3) The member has at least ten (10) years of in-state service
 10 credit.

11 The time served by a member in military service for the duration of the
 12 hostilities or for the length of active service in the hostilities and the
 13 necessary demobilization time after the hostilities is not subject to the
 14 one-seventh rule set forth in section 7 of this chapter. However, not
 15 more than six (6) years of military service credit may be granted under
 16 this subsection.

17 (c) This subsection applies to a member who retires after May 1,
 18 1989. A member who had begun but had not completed four (4) years
 19 of approved college teacher education before voluntary or involuntary
 20 induction into the military services is entitled to service credit in an
 21 amount equal to the duration of the member's active military service if
 22 the following conditions are met:

- 23 (1) The member has an honorable discharge.
- 24 (2) Except as provided in subsection (e), the member returns to a
 25 four (4) year approved college teacher training program not later
 26 than twenty-four (24) months after the completion of active
 27 military service and subsequently completes that program.
- 28 (3) The member has at least ten (10) years of in-state service
 29 credit.

30 The time served by a member in active military service for the length
 31 of active service in the hostilities and the necessary demobilization is
 32 not subject to the one-seventh rule set forth in section 7 of this chapter.
 33 However, not more than six (6) years of military service credit may be
 34 granted under this subsection.

35 (d) This subsection applies to a member who retires after May 1,
 36 1991, and who is employed at a state educational institution. A member
 37 who had begun but had not completed baccalaureate or
 38 post-baccalaureate education before voluntary or involuntary induction
 39 into military service is entitled to the member's active military service
 40 credit for the member's active military service in an amount equal to
 41 the duration of the member's military service if the following
 42 conditions are met:

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(1) The member received an honorable discharge.

(2) Except as provided in subsection (e), the member returns to baccalaureate or post-baccalaureate education not later than twenty-four (24) months after completion of active military service and subsequently completes that education.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(e) The board shall extend the twenty-four (24) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than twenty-four (24) months after the member's discharge from military service. However, the board may not extend the deadline beyond forty-eight (48) months after the member's discharge.

(f) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (e), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(g) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(h) Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed

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services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(i) The following apply to the purchase of service credit under subsection (h):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

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(j) This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

(k) Notwithstanding any other provision of this section, a member who:

- (1) has at least ten (10) years of in-state teaching service;**
- (2) served on active duty in the armed forces of the United States;**
- (3) received an honorable discharge;**
- (4) is not entitled to receive a pension for service in the armed forces of the United States; and**
- (5) is not entitled to military service credit under subsections (a) through (g) for purposes of determining eligibility for or the computation of benefits under this chapter;**

is entitled to service credit in an amount equal to the duration of the member's military service. However, not more than six (6) years of service credit may be granted under this subsection. The service credit may be used only in the computation of benefits to be paid after June 30, 2009, and only after the board determines that the member is eligible for the service credit.

SECTION 2. IC 36-8-8-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.3. (a) If the requirements of subsection (b) are satisfied, a fund member who:

- (1) completes at least one (1) year of active service for which the 1977 fund gives credit;**
- (2) serves on active duty in the armed services of the United States for at least six (6) months;**
- (3) receives an honorable discharge from the armed services;**
- (4) is not entitled to receive a benefit from the armed services of the United States or another governmental retirement system for the active duty service; and**
- (5) has not received credit in the 1977 fund for the active duty service under another section of this chapter;**

is entitled to service credit in the 1977 fund in an amount equal to the length of the fund member's military service. However, not more than six (6) years of service credit in the 1977 fund may be granted under this section. The service credit granted under this section may be used only in the computation of benefits to be paid after June 30, 2009, and only after the PERF board determines that the fund member is eligible for the service credit in the 1977

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1 fund.

2 (b) A fund member is entitled to receive service credit in the
3 1977 fund for the active duty service described in subsection (a) if:

4 (1) the fund member pays in a lump sum or in a series of
5 payments determined by the PERF board, not to exceed five
6 (5) annual payments, the amount the fund member would
7 have contributed to the 1977 fund, if the fund member had
8 been a member of the 1977 fund during the active duty
9 service; and

10 (2) the fund member's employer contributes to the 1977 fund
11 the amount the PERF board determines necessary to amortize
12 the active duty service liability over a period determined by
13 the PERF board, but not more than ten (10) years.

14 (c) An amortization schedule for contributions paid under
15 subsection (b)(1) or (b)(2) must include interest at a rate
16 determined by the PERF board.

17 (d) A fund member who:

18 (1) terminates service before satisfying the requirements for
19 eligibility to receive a retirement benefit payment from the
20 1977 fund; or

21 (2) receives a retirement benefit for the same service from
22 another retirement system, other than under the federal
23 Social Security Act;

24 may withdraw the fund member's contributions made under this
25 section plus accumulated interest after submitting to the 1977 fund
26 a properly completed application for a refund.

27 (e) The following apply to the granting of service credit in the
28 1977 fund under this section:

29 (1) The PERF board may not grant credit for the service if
30 doing so would exceed the limitations set forth in Section 415
31 of the Internal Revenue Code.

32 (2) A fund member may not claim the service credit for
33 purposes of determining eligibility or computing benefits
34 unless the fund member has made all payments required
35 under subsection (b)(1).

36 (f) To the extent permitted by the Internal Revenue Code and
37 applicable regulations, the 1977 fund may accept, on behalf of a
38 fund member who is purchasing service credit under this section,
39 a rollover of a distribution from any of the following:

40 (1) A qualified plan described in Section 401(a) or 403(a) of
41 the Internal Revenue Code.

42 (2) An annuity contract or account described in Section 403(b)

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of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate.

SECTION 3. IC 36-8-8-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2009, completes active service for which the 1977 fund gives credit.

(b) A fund member may purchase not more than two (2) years of service credit for the fund member's service on active duty in the armed services of the United States if the fund member meets the following conditions:

(1) The fund member has at least one (1) year of active service for which the 1977 fund gives credit.

(2) The fund member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The fund member receives an honorable discharge from the armed services.

(4) Before the fund member applies to receive a retirement benefit payment, the fund member makes contributions to the 1977 fund as follows:

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(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for service credit and is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member may not receive service credit under this section if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(d) A fund member who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of service credit. The PERF board shall determine the length of the period during which the payments are to be made.

(2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue

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Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate.

SECTION 4. [EFFECTIVE JULY 1, 2009] IC 5-10.4-4-8, as amended by this act, applies to a member of the Indiana state teachers' retirement fund regardless of whether the member retires before July 1, 2009, or after June 30, 2009.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1056, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 2. IC 36-8-8-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.3. (a) If the requirements of subsection (b) are satisfied, a fund member who:**

- (1) completes at least one (1) year of active service for which the 1977 fund gives credit;**
- (2) serves on active duty in the armed services of the United States for at least six (6) months;**
- (3) receives an honorable discharge from the armed services;**
- (4) is not entitled to receive a benefit from the armed services of the United States or another governmental retirement system for the active duty service; and**
- (5) has not received credit in the 1977 fund for the active duty service under another section of this chapter;**

is entitled to service credit in the 1977 fund in an amount equal to the length of the fund member's military service. However, not more than six (6) years of service credit in the 1977 fund may be granted under this section. The service credit granted under this section may be used only in the computation of benefits to be paid after June 30, 2009, and only after the PERF board determines that the fund member is eligible for the service credit in the 1977 fund.

(b) A fund member is entitled to receive service credit in the 1977 fund for the active duty service described in subsection (a) if:

- (1) the fund member pays in a lump sum or in a series of payments determined by the PERF board, not to exceed five (5) annual payments, the amount the fund member would have contributed to the 1977 fund, if the fund member had been a member of the 1977 fund during the active duty service; and**
- (2) the fund member's employer contributes to the 1977 fund the amount the PERF board determines necessary to amortize the active duty service liability over a period determined by the PERF board, but not more than ten (10) years.**

(c) An amortization schedule for contributions paid under subsection (b)(1) or (b)(2) must include interest at a rate

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determined by the PERF board.

(d) A fund member who:

- (1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit payment from the 1977 fund; or
- (2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(e) The following apply to the granting of service credit in the 1977 fund under this section:

- (1) The PERF board may not grant credit for the service if doing so would exceed the limitations set forth in Section 415 of the Internal Revenue Code.
- (2) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required under subsection (b)(1).

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

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(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate.

SECTION 3. IC 36-8-8-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2009, completes active service for which the 1977 fund gives credit.

(b) A fund member may purchase not more than two (2) years of service credit for the fund member's service on active duty in the armed services of the United States if the fund member meets the following conditions:

- (1) The fund member has at least one (1) year of active service for which the 1977 fund gives credit.
- (2) The fund member serves on active duty in the armed services of the United States for at least six (6) months.
- (3) The fund member receives an honorable discharge from the armed services.
- (4) Before the fund member applies to receive a retirement benefit payment, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the following:

- (i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.
- (ii) A rate, determined by the actuary of the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for service credit and is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.
- (iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate

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determined by the actuary of the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member may not receive service credit under this section if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(d) A fund member who:

- (1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit payment from the 1977 fund; or
- (2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

- (1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of service credit. The PERF board shall determine the length of the period during which the payments are to be made.
- (2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.
- (3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a

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state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1056 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 3.

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